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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,779	04/02/2004	Manuel Viamonte JR.	X-9452	8170
615	7590	10/08/2004	EXAMINER	
JOHN S. HALE GIPPLE & HALE 6665-A OLD DOMINION DRIVE MCLEAN, VA 22101			TATE, CHRISTOPHER ROBIN	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/815,779	VIAMONTE, MANUEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher R. Tate	1654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10, 12-18, 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 11, 19, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

### **DETAILED ACTION**

Claims 1-23 are presented for examination on the merits.

#### ***Specification***

The disclosure is objected to because of the following informalities:

On page 1, under the heading RELATED CASES, the filing date of parent application No. 10/622,977 appears to be incorrect. According to Patent Office records, the filing date of parent Application No.10/622,977 should be --July 18, 2003--, not "July 10, 2003".

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 19, 22, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11 and 19 are rendered vague and indefinite by the phrase "wherein said lemon oil is 100% pure USP grade composition" because it is unclear by the final term therein ("composition") if the lemon oil itself is 100% USP grade pure or something else - e.g., is attempting to define a purity of the overall composition and/or a purity of lemon oil within the overall composition? It is suggested that the term "composition" be omitted from this phrase in both of these claims.

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Claims 22 and 23 are rendered vague and indefinite by the overall respective phrases "A composition of claim 16 applied to a dental floss" and "A composition of claim 16 applied to a toothbrush" because this type of language, as drafted, is confusing and unclear - e.g., are these phrases attempting to define an intended use of the claimed composition or are they attempting to define an actual limitation with respect to incorporating the composition of instant claim 16 into the claimed dental appliances? If the intent is the latter, it is suggested that these claims be amended to recite --A dental floss comprising an effective amount of the disinfectant composition of claim 16-- and --A toothbrush comprising an effective amount of the disinfectant composition of claim 16-- or similar phraseology, so as to more clearly define such limitations.

The instant claims are free of the art. The prior art of record does not teach nor reasonably disclose the instantly claimed non-toxic disinfectant composition comprising the recited ingredients within the recited amount ranges. The closest prior art of record is that of Viamonte, Jr. (US 6,296,882 - see entire document). However, this reference does not teach nor reasonably disclose the instantly claimed invention.

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### **Conclusion**

Claims 1-10, 12-18, 20, and 21 are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Tate whose telephone number is (571) 272-0970. The examiner can normally be reached on Mon-Thur, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher R. Tate  
Primary Examiner  
Art Unit 1654